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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/076,108	02/15/2002	Olaf Zaencker	449122022100	8552
7590	12/13/2005			EXAMINER DUONG, DUC T
Kevin R. Spivak Morrison & Foerster LLP Suite 5500 2000 Pennsylvania Avenue, N.W. Washington, DC 20006-1888			ART UNIT 2663	PAPER NUMBER

DATE MAILED: 12/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/076,108	OLAF, ZAENCKER	
	Examiner Duc T. Duong	Art Unit 2663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 February 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,2,5 and 8-21 is/are rejected.
- 7) Claim(s) 3,4,6 and 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/21/05 & 2/15/02</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3, 4, 6, 7, 14, 15, and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3 and 4 recite the limitations "the value 1" and "the value 0" in line 3.

There is insufficient antecedent basis for these limitations in the claim.

Claim 5 recites the limitation "the communication protocol" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 14 recites the limitation "the valve" in line 14. There is insufficient antecedent basis for this limitation in the claim.

Claim 15 recites the limitation "the valve" in line 13. There is insufficient antecedent basis for this limitation in the claim.

Claim 18 recites the limitation "the connected downstream" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application

by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

4. Claims 1, 2, 5, and 8-21 are rejected under 35 U.S.C. 102(e) as being anticipated by Sand (US Patent 6,512,746 B1).

Regarding to claims 1 and 16, Sand discloses a system comprising a detecting unit 32, arranged at a detection point on a transmission channel between a first 38 (left-end) and a second 38 (right-end) VoIP endpoints to detect a first number of RTP speech packets transmitted in a direction of the second VoIP endpoint (fig. 3 col. 5 lines 55-62), and to detect a second number of the RTP speech packets transmitted in a direction of the first VOIP endpoint (fig. 3 col. 6 lines 21-22); and an arithmetic processing unit 54 INMD connected on the input side to the detecting unit to calculate a value representing the transmission quality (i.e. speech level, noise, echo, path delay) from the first and second numbers (fig. 4 col. 6 lines 23-28).

Regarding to claims 2 and 13, Sand discloses a predetermined time period of detection for a 10 Mbit/s transmission channel longer than 5s or 10s (fig. 7 col. 7 line 66-67 and col. 8 lines 1-6).

Regarding to claims 5 and 18, Sand discloses the value representing the transmission quality is subjected to a threshold value discrimination in order to suppress side effects due to features of the communication protocol (col. 6 lines 29-31).

Regarding to claims 8 and 19, Sand discloses the detected first and second numbers and/or the calculated values for a plurality of first and second VoIP endpoints connected to the IP network between which bidirectional speech connections exist in each case are logged (col. 5 lines 63-65).

Regarding to claims 9 and 20, Sand discloses the detected first and second numbers for the first and second VoIP endpoints connected to the IP network within which bidirectional speech connections exist in each case are subjected to summarizing statistical processing to obtain an overall value representing the overall transmission quality of the IP network or of a section of the overall transmission quality of the IP Network (fig. 5 col. 6 lines 56-67).

Regarding to claims 10 and 21, Sand discloses the value representing the transmission quality is signaled to subscribers at the first and/or second VoIP endpoints and/or to an operation control center of the IP network (col. 6 lines 32-33).

Regarding to claims 11 and 12, Sand discloses the value representing the transmission quality is determined in real-time (col. 5 lines 55-62) and is used as an input variable for controlling the speech transmission over the IP network (col. 6 lines 34-40).

Regarding to claims 14 and 15, Sand discloses a method comprising detecting 32 at a detection point on a transmission channel between a first 38 (left-end) and a

second 38 (right-end) VoIP endpoints a first number of RTP speech packets transmitted in a direction of the second VoIP endpoint (fig. 3 col. 5 lines 55-62), and a second number of the RTP speech packets transmitted in a direction of the first VOIP endpoint (fig. 3 col. 6 lines 21-22); and arithmetically process 54 INMD a value representing the transmission quality (i.e. speech level, noise, echo, path delay) from the first and second numbers (fig. 4 col. 6 lines 23-28); and routing the connection between the first and second VoIP endpoints based on the valve 26 (fig. 3 col. 5 lines 1-10).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sand.

Regarding to claim 17, Sand discloses all the limitations with respect to claim 16, except for the arithmetic processing unit has a division or subtraction stage. However, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to include a division or subtraction function since such functions are well-known mathematical functions that can be implemented using gate array.

Allowable Subject Matter

7. Claims 3, 4, 6, and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duc T. Duong whose telephone number is 571-272-3122. The examiner can normally be reached on M-F (9:00 AM-5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Q. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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DD


RICKY Q. NGO
SUPERVISORY PATENT EXAMINER